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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

**Robert E. Manchester
Debtor.**

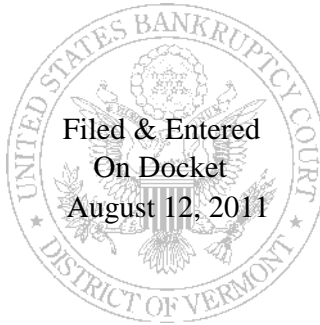
Richard T. Franco,

Plaintiff,

v.

Robert E. Manchester,

Defendant.



**Chapter 7 Case
10-11539**

**Adversary Proceeding
11-01009**

Appearances:

*Jess T. Schwidde, Esq.
Rutland, Vermont
For the Plaintiff*

*John R. Canney III, Esq.
Rutland, Vermont
For the Defendant*

ORDER

**DENYING MOST OF THE DEFENDANT'S MOTION PURSUANT TO RULE 12(B)(6),
DENYING THE DEFENDANT'S MOTION PURSUANT TO RULE 12(E), AND (F),
AND SUA SPONTE STRIKING PARAGRAPHS 54, 55, AND 56 OF THE COMPLAINT**

For the reasons set forth in the memorandum of decision of even date, IT IS HEREBY

ORDERED that:

1. the Defendant's Rule 12(b)(6) motion to dismiss the Plaintiff's § 523(a)(4) claim based upon defalcation in a fiduciary capacity is GRANTED;
2. paragraphs 54, 55, and 56 of the complaint (doc. # 1, ¶ 54-56) are STRICKEN sua sponte pursuant to Rule 12(f)(1);
3. the Defendant's Rule 12(b)(6) motion to dismiss the Plaintiff's § 523(a)(4) claim based upon embezzlement is DENIED;
4. the Defendant's Rule 12(b)(6) motion to dismiss the Plaintiff's § 523(a)(6) claim is DENIED;
5. the Defendant's Rule 12(e) motion for a more definite statement is DENIED;
6. the Defendant's Rule 12(f) motion to strike paragraph 56 of the complaint is DENIED as MOOT; and
7. the Defendant's Rule 12(f) motion to strike paragraph 58 of the complaint is DENIED.

SO ORDERED.

August 12, 2011
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge